

Pt. 502, Subpt. S, Exh. 2

46 CFR Ch. IV (10–1–03 Edition)

The claimant [or if a firm, association, or corporation, state the capacity of the affiant] and is the person who signed the foregoing claim, that he or she has read the foregoing and that the facts set forth without qualification are true and that the facts stated therein upon information received from others, affiant believes to be true.

Subscribed and sworn to before me, a notary public in and for the State of _____, County of _____, this ____ day of _____ 19____. (Seal)

(Notary Public)

My Commission expires, _____

Information To Assist in Filing Informal Complaints

Informal Docket procedures are limited to claims of \$10,000 or less and are appropriate only in instances when an evidentiary hearing on disputed facts is not necessary. Where, however, a respondent elects not to consent to the informal procedures [See Exhibit No. 2 to subpart S], the claim will be adjudicated by an administrative law judge under subpart T of Part 502.

Under the Shipping Act of 1984 [for foreign commerce], the claim must be filed within three (3) years from the time the cause of action accrues and may be brought against any person alleged to have violated the 1984 Act to the injury of claimant.

A violation of a specific section of a particular shipping statute must be alleged.

The format of Exhibit No. 1 must be followed and a verification must be included. (See §§502.21–502.32, 502.112, and 502.304.) An original and two (2) copies of the claim *and all attachments*, including a brief in support of the claim, must be submitted.

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 55 FR 28400, July 11, 1990; 64 FR 7812, Feb. 17, 1999]

**EXHIBIT NO. 2 TO SUBPART S
[§502.304(e)] OF PART 502—RESPONDENT'S
CONSENT FORM FOR INFORMAL
ADJUDICATION**

Federal Maritime Commission, Washington, DC.

Informal Docket No. _____

Respondent's Affidavit

I authorize the Settlement Officer to determine the above-numbered claim in accordance with subpart S (46 CFR 502) of the Commission's informal procedure for adjudication of small claims subject to discretionary Commission Review.

(Date) _____

(Signed) _____
(Capacity) _____

Verification

State of _____, County of _____, ss: _____, being first duly sworn on oath deposes and says that he or she is _____, (Title or Position) and is the person who signed the foregoing and agrees without qualification to its truth.

Subscribed and sworn to before me, a notary public in and for the State of _____, County of _____, this ____ day of _____, 19____. (Seal)

(Notary Public)

My Commission expires. _____

Certificate of Service [See §502.320]

**Subpart T—Formal Procedure for
Adjudication of Small Claims**

§502.311 Applicability.

In the event the respondent elects not to consent to determination of the claim under subpart S of this part, it shall be adjudicated by the administrative law judges of the Commission under procedures set forth in this subpart, if timely filed under §502.302. The previously assigned Docket Number shall be used except that it shall now be followed by capital “F” instead of “I” in parentheses (See §502.304(c)). The complaint shall consist of the documents submitted by the claimant under subpart S of this part. [Rule 311.]

§502.312 Answer to complaint.

The respondent shall file with the Commission an answer within twenty-five (25) days of service of the complaint and shall serve a copy of said answer upon complainant. The answer shall admit or deny each matter set forth in the complaint. Matters not specifically denied will be deemed admitted. Where matters are urged in defense, the answer shall be accompanied by appropriate affidavits, other documents, and memoranda. [Rule 312.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984]

§502.313 Reply of complainant.

Complainant may, within twenty (20) days of service of the answer filed by

Federal Maritime Commission

§ 502.320

respondent, file with the Commission and serve upon the respondent a reply memorandum accompanied by appropriate affidavits and supporting documents. [Rule 313.]

§ 502.314 Additional information.

The administrative law judge may require the submission of additional affidavits, documents, or memoranda from complainant or respondent. [Rule 314.]

§ 502.315 Request for oral hearing.

In the usual course of disposition of complaints filed under this subpart, no oral hearing will be held, but, the administrative law judge, in his or her discretion, may order such hearing. A request for oral hearing may be incorporated in the answer or in complainant's reply to the answer. Requests for oral hearing will not be entertained unless they set forth in detail the reasons why the filing of affidavits or other documents will not permit the fair and expeditious disposition of the claim, and the precise nature of the facts sought to be proved at such oral hearing. The administrative law judge shall rule upon a request for oral hearing within ten (10) days of its receipt. In the event an oral hearing is ordered, it will be held in accordance with the rules applicable to other formal proceedings, as set forth in subparts A through Q of this part. [Rule 315.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984]

§ 502.316 Intervention.

Intervention will ordinarily not be permitted. [Rule 316.]

§ 502.317 Oral argument.

No oral argument will be held unless otherwise directed by the administrative law judge. [Rule 317.]

§ 502.318 Decision.

(a) The decision of the administrative law judge shall be final, unless, within twenty-two (22) days from the date of service of the decision, either party requests review of the decision by the Commission, asserting as grounds therefor that a material finding of fact or a necessary legal conclusion is erroneous or that prejudicial

error has occurred, or unless, within thirty (30) days from the date of service of the decision, the Commission exercises its discretionary right to review the decision. The Commission shall not, on its own initiative, review any decision or order of dismissal unless such review is requested by an individual Commissioner. Any such request must be transmitted to the Secretary within thirty (30) days after date of service of the decision or order. Such request shall be sufficient to bring the matter before the Commission for review. [Rule 318.]

(b) If the complainant is awarded reparations pursuant to section 11 of the Shipping Act of 1984, attorney's fees shall also be awarded in accordance with § 502.254 of this part. [Rule 318.]

[49 FR 44369, Nov. 6, 1984, as amended at 52 FR 6332, Mar. 3, 1987]

§ 502.319 Date of service and computation of time.

The date of service of documents served by the Commission shall be that which is shown in the service stamp thereon. The date of service of documents served by parties shall be the date when the matter served is mailed or delivered in person, as the case may be. When the period of time prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded from the computation. [Rule 319.]

§ 502.320 Service.

All claims, resubmitted claims, petitions to intervene and rulings thereon, notices of oral hearings, notices of oral arguments (if necessary), decisions of the administrative law judge, notices of review, and Commission decisions shall be served by the administrative law judge or the Commission. All other pleadings, documents and filings shall, when tendered to the Commission, evidence service upon all parties to the proceeding. Such certificate shall be in substantially the following form:

Certificate of Service

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by [mailing, delivering to courier, or delivering in person], a copy to each such person in sufficient time